

June 25, 2004 Commission Meeting Summary

ITEM

1. **Public Comment.** *No public comment received.*

CONSENT ITEMS

2. **Approval of the Minutes of the May 13, 2004, Commission Meeting.** *Approved.*

ENFORCEMENT

Conflicts of Interest and SEI Disclosure Violations

3. **In the Matter of Richard G. Carlile, FPPC No. 99/501.** Staff: Senior Commission Counsel Deanne Canar and Investigator III Leon Nurse-Williams. Respondent Richard G. Carlile, a member of the Santa Rosa Planning Commission, made, participated in making, and attempted to use his official position to influence governmental decisions in which he had a financial interest, in violation of Government Code section 87100 (4 counts); and failed to fully disclose reportable economic interests on four consecutive annual statements of economic interests, in violation of Government Code sections 87203, 87206, and 87207 (5 counts). *Approved; \$24,000 fine.*

Mass Mailing Violations

4. **In the Matter of California Independent Business Political Action Committee and Charles H. Bell, Jr., FPPC No. 99/195.** Staff: Senior Commission Counsel Melodee A. Mathay and Supervising Investigator Sue Straine. Respondent California Independent Business Political Action Committee (CIB-PAC) is a general purpose recipient committee located in Sacramento. Respondent Charles H. Bell, Jr. is CIB-PAC's paid treasurer. In this matter, Respondents paid for and sent eight political mass mailings that opposed incumbent Assemblyman Brian Setencich in the 30th Assembly District primary election, and supported his challenger, Robert Prenter. All eight mass mailings failed to disclose proper sender identification, which should have included the name, address, and city of Respondent CIB-PAC. By failing to include proper sender identification on the eight mass mailings, Respondents violated Government Code section 84305. (8 counts.) Following an administrative hearing in Sacramento regarding this matter, Presiding Administrative Law Judge Jaime René Román issued a proposed decision finding that eight violations occurred, and imposing a maximum administrative penalty of \$16,000 on both Respondents. At their March 15, 2004 meeting, the Commission rejected Judge Román's proposed decision in its entirety, and requested that the parties submit additional evidence, and oral and written argument, on the issue of Respondent Bell's liability for the violations. In lieu of proceeding with discovery, briefing, and oral argument, the parties seek the Commission's approval of

this negotiated settlement, which would resolve all disputed factual and legal issues between them in this matter. *Approved; \$16,000 fine.*

Campaign Reporting Violations

- 5. In the Matter of Residential Builders Association of San Francisco, Residential Builders Association of San Francisco PAC, and Joe Cassidy, FPPC No. 01/612.** Staff: Commission Counsel Julia Bilaver and Accounting Specialist William Marland. Respondent Residential Builders Association of San Francisco is a trade association based in San Francisco. Respondent Residential Builders Association of San Francisco PAC is sponsored by the trade association. Respondent Joe Cassidy is the treasurer of the trade association's sponsored committee. Respondents failed to report required information regarding the members of the trade association who made contributions of \$100 or more to the sponsored committee, in violation of Government Code section 84211(f) (six counts); failed to disclose a \$10,000 late contribution on a properly filed late contribution report, in violation of Government Code section 84203(a) (one count); failed to send major donor notification letters to contributors of \$5,000 or more, in violation of Government Code section 84105 (12 counts); and made prohibited loans of campaign funds, in violation of Government Code section 89515 (three counts). *Approved; \$47,000 fine.*
- 6. In the Matter of New Democrat Network and Simon Rosenberg, FPPC No. 01/307.** Staff: Commission Counsel Julia Bilaver and Investigator Charlie Bilyeu. Respondent New Democratic Network was a state general purpose committee that was based in Washington, D.C. Respondent Simon Rosenberg was the founder and treasurer of the committee. Respondents failed to timely file two pre-election campaign statements in paper format, in violation of Government Code section 84200.5 (two counts); and failed to file a pre-election campaign statement in electronic format, in violation of Government Code section 84605, subdivision (b) (1 count). *Approved; \$5,500 fine.*
- 7. In the Matter of George M. Drysdale; FPPC No. 03/686.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent George M. Drysdale of Hillsborough and the Philippines, committed one violation of the Act by failing to timely file a semi-annual campaign statement, in violation of Section 84200(b) of the Government Code (1 count). *Approved; \$2,500 fine.*
- 8. In the Matter of Dale L. Jones and Committee to Elect Dale Jones, FPPC No: 01/592.** Staff: Commission Counsel Steven Meinrath and Investigator III Sandra Buckner. Respondent Dale L. Jones was an unsuccessful candidate for a seat on the Lynwood City Council in the November 4, 1997 General Municipal Election. Respondent Committee to Elect Dale Jones was the controlled committee of Respondent Jones. Respondents failed to timely file a pre-election campaign statement, in violation of Government Code section 84200.8 (1 count); failed to report the true source of non-monetary campaign contributions, in violation of Government Code section 84211 (1 count); failed to maintain detailed records and accounts as were necessary to properly prepare a first pre-election campaign statement, in violation of Government Code section 84104 (1 count); and failed to timely file a semi-annual campaign statement, in violation of Government Code section 84200(a) (1 count). *Approved; \$4,000 fine.*

Contribution Limit Violations

- 9. In the Matter of Butte County Republican Central Committee and Jack R. Sargent, FPPC No. 03/474.** Staff: Commission Counsel Julia Bilaver and Accounting Specialist Luz Bonetti. Respondent Butte County Republican Central Committee is a political party committee based in Butte County. Respondent Jack R. Sargent is the treasurer of the committee. Respondents impermissibly accepted a contribution in excess of \$25,000 from 21st Century Insurance Group for the purpose of supporting candidates for elective state office, in violation of Government Code section 85303(b); (1 count); and improperly used a contribution in excess of \$25,000 to make contributions to candidates for elective state office, in violation of Government Code section 85303(c) (1count). *Approved; \$10,000 fine.*
- 10. In the Matter of Kern County Republican Central Committee and Matt Brady, FPPC No. 03/475.** Staff: Commission Counsel Julia Bilaver and Accounting Specialist Luz Bonetti. Respondent Kern County Republican Central Committee is a political party committee based in Kern County. Respondent Matt Brady is the treasurer of the committee. Respondents impermissibly accepted a contribution in excess of \$25,000 from 21st Century Insurance Group for the purpose of supporting candidates for elective state office, in violation of Government Code section 85303(b) (1 count); and improperly used a contribution in excess of \$25,000 to make contributions to candidates for elective state office, in violation of Government Code section 85303(c) (1 count). *Approved; \$10,000 fine.*
- 11. In the Matter of San Joaquin County Republican Central Committee and Rick Veldstra, FPPC No. 03/250.** Staff: Commission Counsel Julia Bilaver and Accounting Specialist Luz Bonetti. Respondent San Joaquin County Republican Central Committee is a political party committee based in San Joaquin County. Respondent Rick Veldstra served as a treasurer of the committee. Respondents impermissibly accepted a contribution in excess of \$25,000 from 21st Century Insurance Group for the purpose of supporting candidates for elective state office, in violation of Government Code section 85303(b) (1 count); and improperly used a contribution in excess of \$25,000 to make contributions to candidates for elective state office, in violation of Government Code section 85303(c) (1 count). *Approved; \$10,000 fine.*

SEI Violations

- 12. In the Matter of Melodee Brewington, FPPC No. 02/556.** Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Melodee Brewington, a member of the Board of Trustees of the Junction Elementary School District for the County of Siskiyou, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87300 (1 count). *Approved; \$400 fine.*

Late Contribution – Streamlined Program

- 13. Failure to Timely File Late Contribution Reports – Proactive Program.** Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for

failure to file late contribution reports in 2003, in violation of Government Code Section 84203:

- b. In the Matter of Martin D. Singer, FPPC No. 2004-156.** Martin D. Singer of Beverly Hills, California failed to timely disclose a late contribution totaling \$10,000.00. (1 count). *Approved; \$1,500 fine.*
- c. In the Matter of Edward J. Templeman, FPPC No. 2004-157.** Edward J. Templeman of Canyon Country, California failed to timely disclose a late contribution totaling \$10,000.00. (1 count). *Approved; \$1,500 fine.*

LEGAL MATTERS

OPINION

- 14. Opinion Request; In re Taylor (O-04-103).** Staff: Executive Director Mark Krausse. Lavar Taylor, an unsuccessful candidate for Governor in the March, 2004 statewide special election, has requested an exemption from the requirement that he identify on his Statement of Economic Interests (Form 700) certain sources of income to his wholly owned law firm. His request is based on the unusually sensitive nature of a practice specializing in “tax controversies,” a circumstance under which public identification of his clients might expose them to an enhanced a risk of investigation and prosecution by state and federal taxing authorities. Such an exemption is permitted under regulation 18740 and was approved by the Executive Director. As required under the regulation, it is presented to the Commission as an opinion request. *Adopted.*

REGULATIONS

Pre-Notice Discussion

- 15. Pre-notice Discussion of Amendments to Required Recordkeeping for Chapter 4 – Regulation 18401 and Disclosure of the Making and Receipt of Contributions – Regulation 18421.1.** Staff: Commission Counsel Galena West, Executive Fellow Stephanie Dougherty and General Counsel Luisa Menchaca. The Commission is considering amendment of regulation 18401, the required recordkeeping regulation, and regulation 18421.1, which contains the standards for determining when a contribution is made or received. Regulation 18401 would be amended to outline what records must be retained for a contribution made through electronic means and regulation 18421.1 would be amended to provide a clear rule for determining when an electronic contribution has been “made” or “received.” *The proposed amendments were approved for adoption in August.*

Adoption

- 16. Adoption of Amendments to Termination of Committees Regulation 18404.1 – Termination and Reopening of Committees.** Staff: Commission Counsel Galena West. The Commission is considering amendment of regulation 18404.1, the rules regulating the termination of committees. Candidate controlled committees organized for elective state office are required to terminate pursuant to regulations 18404 and 18404.1. The amended

regulatory language of regulation 18404.1 presents a procedure for committees to reopen for limited purposes. These limited purposes are listed in the proposed amendments to the regulation. Also addressed in the amended regulation is the time frame in which a candidate controlled committee organized for elective state office must close if the candidate has withdrawn from the election. *Adopted.*

- 17. Adoption Discussion: Amended Regulation 18531.5 (Recall Elections); Regulation 18530.9 (Contributions to Candidate Controlled Ballot Measure Committees); Regulation 18531.10 (Communications Identifying State Candidates).** Staff: Commission Counsel C. Scott Tocher. This discussion addresses the issues surrounding application of section 85310, which partially governs issue advocacy, to candidate-controlled ballot measure committees. This staff memorandum addresses this and various other issues arising out of section 85310, including its interaction with section 85303. Commission staff also addresses the possible application of contribution limits under sections 85301 and 85302 to candidate controlled ballot measure committees. This item will consider adoption of regulations applying the contribution limits of sections 85301 and 85302 to candidate controlled ballot measure committees, as well as application of section 85310. Conforming changes are recommended to regulation 18531.5, if necessary. *Adopted.*

OTHER LEGAL MATTERS

- 18. Regulatory Calendar – Work Plan Revisions.** Staff: Assistant General Counsel John W. Wallace and General Counsel Luisa Menchaca. This memorandum proposes various changes to the regulatory calendar as part of the quarterly review of the work plan. Staff proposes that the Commission defer regulatory action on various items until 2005. *Approved.*

OTHER ENFORCEMENT MATTERS

Consideration of Revisions to Enforcement Policy

- 19. Streamlined Enforcement Program for Statement of Economic Interests Non-Filers.** Staff: Enforcement Division Chief Steven Benito Russo and Chief Investigator Alan Herndon. This item concerns proposed changes to the standardized procedures and penalty structure for the Streamlined Enforcement Program for Statement of Economic Interests Non-Filers. The Commission is asked to approve changes to the program that would: (1) incorporate the use of one-page stipulation documents that are similar to those used in other streamlined enforcement programs; and (2) modify the schedule of penalties that shall be imposed under the program. *Approved. Commissioner Knox abstained.*

ITEMS REMOVED FROM CONSENT

ACTION ITEM

- 20. Legislative Report.** Staff: Executive Director Mark Krause. *The Commission approved the staff recommendations to support AB 890 and oppose SB 1849.*

DISCUSSION ITEMS

21. Executive Director's Report. Staff: Executive Director Mark Krausse. *Mr. Krausse briefly discussed budget matters.*

22. Litigation Report. Staff: General Counsel Luisa Menchaca and Senior Commission Counsel Larry Woodlock. *Ms. Menchaca reported that the Supreme Court will review the Agua Caliente case.*